IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc 14619-M of 2007

Date of decision: 8.3.2007

Kulbir Singh …Petitioner

Versus

Office of Recovery Officer, EPFO Chandigarh
And ors …Respondents

Present: Mr Swaraj Arora, Advocate, for the petitioner.

S.S. SARON, J (oral)

The petitioner has been issued notice dated 20.12.2006 (Annexure P4) to show cause why warrant of arrest should not be issued. It is alleged in the said notice that the petitioner has failed to pay the amount of arrears specified in certificate dated 18.4.2006 forwarded by the authorized officer, Chandigarh to the recovery officer, Chandigarh. The liability that has been fastened on the petitioner for which the show cause notice has been issued is in relation to proceedings under the Employees Provident Fund and Misc Proceedings Act, 1952 (Act – for short). The petitioner seeks pre-arrest bail in terms of Section 438 CrPC.

Having heard learned counsel for the petitioner and giving my thoughtful consideration to the matter, in my view the petition is misconceived. Section 438 CrPC is for direction for the grant of bail to person apprehending arrest. It is provided that when any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for direction under this section that in the event of such arrest, he

shall be released on bail. The proceedings initiated under the Act are not in any manner relating to accusation of having committed a non-bailable offence. Therefore, in my view the procedure under Section 438 CrPC is not applicable.

Consequently, this petition is dismissed.

8.3.2007. (S.S.SARON)
ASR JUDGE